

## DEPARTMENT OF FINANCE BILL ANALYSIS

**AMENDMENT DATE:** March 29, 2007  
**POSITION:** Oppose  
**SPONSOR:** California Dental Hygienists Association

**BILL NUMBER:** SB 534  
**AUTHOR:** D. Perata  
**RELATED BILLS:** SB 1472 of 2006

### **BILL SUMMARY:** Dentistry: Dental Hygienists

This bill would create the California Dental Hygiene Board (Board) and extend the sunset dates for the Dental Board of California (DBC) and the Committee on Dental Auxiliaries (COMDA).

### **FISCAL SUMMARY**

According to the Department of Consumer Affairs (DCA), the Board would receive \$780,000 annually (\$390,000 in 2007-08) from license, renewal, and examination fees. This money would be deposited in the newly created State Dental Hygiene Fund. Expenditures for the Board are estimated to be \$501,000 in 2007-08 and \$655,000 ongoing. This bill would provide for a transfer of funds from the State Dental Auxiliary Fund to the State Dental Hygiene Fund on January 1, 2008. For the Board to become fiscally solvent on an ongoing basis, various fees for dental hygienists would need to be adjusted. This increased fee amount is included in the revenue projections above.

According to the DCA, the COMDA would need to reduce its budget by 3 positions and \$488,000 annually, as this bill creates a workload reduction to the COMDA by transferring responsibility for oversight of the dental hygienists to a new Board.

Any local government costs resulting from the mandate in this measure would not be state-reimbursable, because the mandate only involves the definition of a crime or the penalty for conviction of a crime.

### **COMMENTS**

The Department of Finance opposes this bill for the following reasons:

- The need for this measure is unclear as dental hygienists are currently subject to licensure and regulation by the COMDA. A nearly identical bill was vetoed last year.
- It would increase various maximum fees that dental hygienists and assistants can be charged in order to maintain solvency within the new Board.
- It would result in additional costs that are not included in the 2007-08 Governor's Budget , and for which no appropriation is provided.
- It creates a continuously appropriated fund, which removes legislative and administrative oversight from the Board's fiscal matters. In doing so, this measure would conflict with 2005-06 Budget trailer bill language (Chapter 74, Statutes of 2005) which removed continuous appropriation authority from the operating funds of DCA entities.

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Analyst/Principal (0242) K. Shelton	Date	Program Budget Manager Todd Jerue	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

<b>BILL ANALYSIS</b>	Form DF-43 (Rev 03/95 Buff)
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Existing law:

- Provides for the licensure and regulation of dentists by the DBC and dental hygienists and dental assistants by the COMDA.
- Sunsets the DBC and COMDA on July 1, 2008.
- Makes the DBC responsible for all disciplinary actions against a dental auxiliary and for approving all of their continuing education requirements.
- Creates the State Dental Auxiliary Fund.

This bill would:

- Create the Board within DCA.
- Rename the COMDA to the Committee on Dental Assistants.
- Extend the sunset date for the DBC and the COMDA to July 1, 2010.
- Establish criteria for licensure by the Board.
- Set forth the Board's functions, including issuing, reviewing, and revoking licenses, developing and administering examinations, and determining fees and education programs and continuing education requirements for licensees.
- Specify acts that would constitute unprofessional conduct, and specify acts that would constitute crimes.
- Create the State Dental Hygiene Fund and require the fees paid by licensees and certain fines be deposited into the fund.
- Transfer a specified amount into the Dental Hygiene Fund from the State Dental Auxiliary Fund.
- Rename the State Dental Auxiliary Fund to the State Dental Assistants Fund.
- Require the Board to establish a diversion program for licensees whose competency may be impaired due to drug or alcohol abuse and to establish diversion evaluation committees, with specified duties in that regard.

The overall purpose of this measure is to increase consumer protection by creating separate regulatory bodies for dental hygienists and dental assistants. An almost identical bill, SB 1472 (2006) was vetoed last year because the concerns of dentists and dental hygienists can be addressed within the existing statutory structure.

## **ANALYSIS**

### **A. Programmatic Analysis**

COMDA is a statutorily created committee within the DBC. It operates under the direction of the DBC, but is also an independent entity in terms of composition, staffing, and operations. COMDA is governed by nine members appointed by the Governor of California. COMDA is headed by an Executive Office and has a budget of approximately \$2.3 million annually. COMDA also has five standing subcommittees overseeing the various examination processes.

COMDA administers the examination and licensing programs for Registered Dental Assistants (RDAs), Registered Dental Assistants in Extended Functions, Registered Dental Hygienists, Registered Dental Hygienists in Extended Functions, and Registered Dental Hygienists in Alternative Practice. COMDA also maintains records of certification of persons who have taken approved courses and are, therefore, allowed to perform specialized duties, which include exposure of x-rays on patients, coronal polishing, ultrasonic scaling, pit and fissure sealants, administration of local anesthetics, soft tissue curettage, and administration of nitrous oxide and oxygen.

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This bill is intended to enact a recommendation by the Joint Committee on Boards, Commissions, and Consumer Protection (Committee). According to the Committee, there has been a long term debate over the scope of practice for dental auxiliaries. The Committee has indicated that it is a priority to find a resolution to this long term dispute and recommended the establishment of a more structured framework that would be applied in defining the scope of practice for dental auxiliaries based on a general range of duties.

## B. Fiscal Analysis

### Board for Dental Hygiene

According to the DCA, the proposed Board committee would consist of nine members appointed by the Governor. Each member would receive per diem and expenses to conduct mandatory quarterly meetings. Assuming each member is paid \$100 per diem and incurs \$200 in travel expenses per meeting the Board would incur an estimated annual cost of \$5,400 (9 members x \$300 per meeting x 2 meetings). We note that members could hold more meetings to conduct business deemed appropriate.

This bill also requires a percentage of the funds in the State Dental Auxiliary Fund to be transferred to the State Dental Hygiene Fund on January 1, 2008. Based on the current data, it is estimated that 29 percent of the licensing population of approximately 73,000 consists of registered dental hygienists, or 21,170. Based on the current analysis of projected workload revenue, the estimated transfer amount is calculated as follows (calculations based on financial estimates provided in 2006 regarding almost identical bill SB 1472 of 2006):

Beginning Reserve, July 1, 2007	\$884,000
Revenue (Jul-Dec 2007)	\$1,035,000
Total, Resources	\$1,919,000
Expenditures (Jul-Dec 2007)	\$1,019,000
Total, Fund Balance	\$900,000
Transfer Amount (Jan 1, 2008)	\$261,000 (\$900,000 x 29%)

The DCA has estimated that the new Board would need expenditure authority of \$501,000 for 2007-08 (\$650,000 ongoing) and 4 positions for program administration, examinations, license renewals, enforcement, for committee meetings (as mentioned above). Built into this level of authority are one-time costs of \$193,000 (1,930 consultant hours x \$100/hour) in 2007-08 to change the Consumer Affairs System (CAS) and develop a website, and \$12,000 (120 consultant hours x \$100/hour) ongoing for system maintenance. In addition, the Board would incur \$34,000 in ongoing costs (beginning in 2008-09) related to implementing and maintaining iLicensing services.

According to DCA, COMDA currently collects \$162,000 in application/examination fees, \$330,000 in license renewal fees, and \$8,000 in other miscellaneous fees, totaling \$500,000 annually (\$250,000 would transfer to the Board in 2007-08). The estimated revenue generated (hence, the equivalent revenue reduction in the State Dental Auxiliary Fund), plus the \$261,000 transfer amount, would be insufficient to cover estimated costs of operating the Board in 2008-09 and ongoing. For the Board to become solvent various fees would need to be increased. Therefore, the Board would need to increase fees, as authorized by this bill, resulting in additional revenue of \$280,000 annually. This would bring total estimated annual revenues for the Board (not including the one-time transfer) to \$780,000 annually (\$390,000 in 2007-08).

## AUTHOR

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This bill would require the revenue for the Board to be deposited into the State Dental Hygiene Fund, which would be continuously appropriated so that the Board could carry out the purposes of this bill.

## Committee on Dental Auxiliaries

According to the DCA, the COMDA would need to reduce its position authority by 3 positions and expenditure authority by \$488,000 annually (beginning in 2008-09), as this bill creates a workload reduction to COMDA by transferring the dental hygienist to a new Board. In addition the State Dental Auxiliary Fund would realize an annual revenue reduction of \$500,000 in 2008-09 (\$250,000 in 2007-08). Currently, estimated revenues to the State Dental Auxiliary Fund exceed estimated expenditures by only \$31,000.

Lastly, COMDA would incur costs associated with their name change. These costs are absorbable within existing resources.

## Dental Board of California

According to the DCA, the DBC would not collect approximately \$21,000 in reimbursements annually (\$10,500 in 2007-08), if the Board decides not to utilize its enforcement services. It is currently unclear whether the Board would utilize the DBC for its enforcement services. This decision would likely not be made until the Board comes into existence.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO RV	PROP 98	FC	2006-2007	FC	2007-2008	FC	2008-2009	
1110/ConAfr-ReqBd	SO	No		-----	See Fiscal Analysis	-----			0741
1110/ConAfr-ReqBd	SO	No		--	M	-\$210	M	-\$488	0380
9901/Var Depts	SO	No		--	C	\$501	C	\$655	0494
1200/Reg Tax&Licn	RV	No		--	U	-\$250	U	-\$500	0380
1200/Reg Tax&Licn	RV	No		--	U	\$390	U	\$780	0494
T00494/Transfer	RV	No		--	U	-\$261		--	0380
F00380/Transfer	RV	No		--	U	\$261		--	0494

<u>Fund Code</u>	<u>Title</u>
0380	Dental Auxiliary Fund, State
0494	Other Unallocated Special Funds
0741	Dentistry Fund, State